

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

\$45,000.00 IN UNITED STATES
CURRENCY,

Defendant.

8:11CV14

MEMORANDUM AND ORDER

This matter is before the Court on the Motion for Attorney Fees and Litigation Costs (Filing No. 82) filed by Claimant Carlos Martins (“Claimant”). For the reasons stated below, the Motion will be granted.

DISCUSSION

Claimant prevailed in this forfeiture proceeding initiated by the United States. (Filing No. 81.) The Civil Asset Forfeiture Reform Act (“CAFRA”) states that in “any civil proceeding to forfeit property under any provision of Federal law in which the claimant substantially prevails, the United States shall be liable for reasonable attorney fees and other litigation costs reasonably incurred by the claimant.” 28 U.S.C. § 2465(b)(1)(A). Claimant has moved for an award of attorney’s fees and costs.

CAFRA does not expressly state how fee and cost awards should be calculated. However, courts have used the lodestar method to determine the proper amount to be awarded. See *United States v. \$186,416.00 in U.S. Currency*, 642 F.3d 753, 754 (9th Cir. 2011); *United States v. One Star Class Sloop Sailboat*, 546 F.3d 26, 37-8 (1st Cir. 2008). “The most useful starting point for determining the amount of a reasonable fee is the number of hours reasonably expended on the litigation multiplied by a reasonable

hourly rate." *Miller v. Dugan*, 13-2653, 2014 WL 4099725, at *3 -- F.3d -- (8th Cir. Aug. 21, 2014) (quoting *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983); see also *Del. Valley Citizens' Council for Clean Air*, 478 U.S. 546, 565 (1986) (explaining that the lodestar is the "the product of reasonable hours times a reasonable rate.") "[T]he fee applicant bears the burden of establishing entitlement to an award and documenting the appropriate hours expended and hourly rates." *Id.* (quoting *Hensley*, 461 U.S. at 437)).

Claimant has submitted a Brief (Filing No. 83) and Declaration of Claimant's attorney (Filing No. 84) in support of his Motion. The United States has not challenged or otherwise responded to Claimant's Motion. Claimant's attorney of record, Joseph L. Howard, has fourteen years of experience and is a partner with the law firm of Dornan, Lustgarten, and Troia. There is no indication that the requested \$250/hour fee is unreasonable. The Declaration provides a detailed description of the hours expended to pursue Claimant's claim, including work before the District Court and Circuit Court of Appeals. The Court concludes the time and costs expended were reasonable and was essential to bringing about the result achieved. Accordingly,

IT IS ORDERED:

1. The Motion for Attorney Fees and Litigation Costs (Filing No. 82) filed by Claimant Carlos Martins, is granted;
2. Claimant Carlos Martins is awarded attorney's fees as the prevailing party in the amount of \$36,175.00; and
3. Claimant Carlos Martins is awarded \$262.80 for costs associated with this case.

Dated this 17th day of September, 2014.

BY THE COURT:

s/Laurie Smith Camp
Chief United States District Judge